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Massachusetts

Food Store

Item Pricing Law

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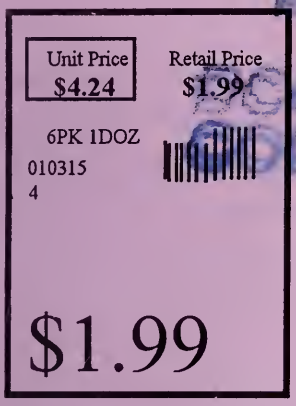

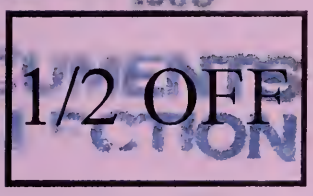

Executive Office Of Consumer Affairs and Business Regulation

William F. Weld
Governor

Priscilla H. Douglas
Secretary

Massachusetts has a law requiring most items sold by food stores, and most grocery items sold by any other sellers to be individ ally price marked with the actual selling price. The law also requires sellers to sell any item at the lowest price indicated on an item, sign, or advertisement. Violations of the law could carry a $100 fine.

Here are the answers to some commonly asked questions about the law:

1. WHAT STORES AND ITEMS ARE COVERED BY THE LAW?

Every item carried by any type of food store and every grocery item carried by any other type of seller must be individually marked with the correct selling price including any "sale price", unless a specific exemption has been granted. Grocery items that must be marked include any food, pet food or supplies, soap, household cleaners, laundry products, light bulbs, and disposable paper or plastic products. Other state regulations require price marking for other types of item and at other types of stores.

2. WHAT ITEMS DO NOT HAVE TO BE PRICE MARKED INDIVIDUALLY?

All unpackaged items (like produce), gallons and half gallons of milk, eggs, tobacco products, candy and snack food located at the checkout area if they cost less than 76 cents and weigh less than three ounces, greeting cards, vegetable or fruit baby food in glass jars, and up to 60 items of the store's

own choosing that are located in end-aisle or freestanding displays.

Additionally, soft drink bottles and cans do not have to be individually marked, provided, however, that the shelf where these items are usually stored is marked with the correct price.

Stores which utilize automatic cash registers that "scan" an item to determine its price are allowed to not mark up to 400 additional items of their own choosing.

3. WHY ARE STORES NOW PERMITTED NOT TO PRICE MARK SO MANY ITEMS?

A typical supermarket may carry over 10,000 items. The exemptions permitted by the law represent only a small fraction of that. In addition, most of the exemptions were in effect prior to this law. A few new exemptions were added, but in return the state got new enforcement powers with "instant cash fines" which can be levied for even a single wrong package.

4. HOW WILL I KNOW THE PRICE OF AN ITEM IF IT IS NOT MARKED?

The law requires that a store display a special price sign, larger than the regular unit price shelf label for any item that is not price marked. There is a $100 fine for every missing or incorrect sign. In addition, a store must maintain a list of every item it chooses not to individually mark under the 60 and

400 item exemptions. If an item is not on the list, and not otherwise exempt, it must be price marked. Further, a store must allow you to see their exemption lists.

5. WHAT DOES THE LAW SAY ABOUT OVERCHARGING?

Whether the item is exempt or not from the price marking requirement, all items sold by food stores and all grocery items sold by any other types of seller must be sold at "the lowest price represented to the consumer." This means you pay the lowest price on any sign, price tag, sticker, advertisement or shelf label. So if an item is marked 79 cents, but scans at 99 cents, you can buy all you want for 79 cents.

6. WHAT IF ONE CAN IS MARKED 79 CENTS AND ALL THE ARE 99 CENTS, CAN I BUY AS MANY AS I WANT FOR 79 CENTS?

No. Different types of price representations are treated differently. An advertisement is a broad price representation, while the price on a package itself only represents the price for that one package and for any unmarked packages. In this example, you may purchase for 79 cents as many packages as are marked 79 cents or which are unmarked, but you cannot get an identical package for 79 cents if it is marked 99 cents, when no sign, shelf tag, or ad also indicates that 79 cents is the price.

7. DOES THE STORE ALWAYS HAVE TO SELL ITEMS AT THE LOWEST REPRESENTED PRICE?

Almost always. If the price you are trying to buy the item for is the result of a "gross error," they do not have to sell you even one. A gross error in a price that is less than half the correct selling price and that was never the actual selling price within the past month. For example, butter marked 39 cents need not be sold at that price if the correct price is really $1.39 and it was not on sale for 39 cents during the past month. In addition, a store has no obligation to sell you an item if the price tag or sign shows signs of obvious physical tampering.

8. WHAT ARE THE VIOLATIONS AND THE FINES?

There are four types of violations: missing prices on items, incorrect prices on items, incorrect or missing signs, and overcharging. Each violation carries a $100 cash fine payable to the state within 30 days of issuance.

9. WHEN DOES A VIOLATION OCCUR?

Just having an incorrectly priced or unmarked item that is not exempted sitting on a shelf could be a violation. Likewise, if a price higher than any represented price is rung up at the cash register, even if the cashier "lets you have it" for the lower price,

there is still an overcharging violation, unless the store gives you the overcharged item free under a price accuracy guarantee. The law is strict because although you may have spotted the overcharge, how many consumers before you didn't catch the mistake and wound up overpaying?

10. HOW IS THE LAW ENFORCED?

There are two ways: Division of Standards inspectors will make periodic store inspections; and consumers can report violations.

11. WHY SHOULD CONSUMERS HELP ENFORCE THIS LAW?

You, the consumer, who shops at the store every week are the best source of information as to how well the store is complying with the law. Not price marking is unfair to consumers, and to other stores which take item pricing seriously. Stores will only become more accurate if they know they are being monitored and that fines will be imposed.

Information References:

Item Pricing Questions:
Contact the Division of Standards at (617) 727-3480. Be sure to save your receipt, the item in question, and any advertisement.

For general information and pamphlet requests:
Contact the Executive Office of Consumer Affiars and Business Regulation for more information at (617) 727-7780.